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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.684 OF 2005
IN
SUMMARY SUIT NO.1946 OF 2005

K.S. Unnikrishnan).. Plaintiff

Versus

Smt.R.J. Mordecai).. Defendant

Mr.E.K. Sasidharan for the Plaintiff.

None present for the Defendant.

CORAM : SMT. NISHITA MHATRE, J.

DATED : 20TH MARCH 2006

P.C.:

. The Suit has been filed for recovery of balance amount of Rs.2,10,000/- payable towards goods sold and delivered to the Defendant. The Plaintiff had delivered goods against two invoices, one dated 22nd August 2004 and the other dated 5th October 2004. The invoice dated 22nd August 2004 is for an amount of Rs.3,52,000/-. An amount of Rs.2,00,000/- has been received by the Plaintiff against that invoice. Balance amount payable against that invoice is Rs.1,52,000/-. However, the goods sold against the invoice dated 5th October 2004 were worth Rs.5,85,000/-. An amount of Rs.2,00,000/- has been paid by the Defendant initially and a further amount of Rs.1,75,000/- on 8th December 2004. According

to the Plaintiff, Rs.2,10,000/- is the balance to be paid by the Defendant. The Suit has been filed to recover this amount together with interest.

2. The only defence taken by the Defendant in the reply to the Summons for Judgment is that the material supplied was not upto the specification as ordered by the Defendant. However, there is no material on record to indicate that the Defendant had at any point of time brought this to the notice of the Plaintiff. It appears that this contention has been raised by the Defendant only to thwart the claim of the Plaintiff since part payment against the invoices has already been made.

3. With a view to give an opportunity to the Defendant to defend her case, conditional leave granted to the Defendant on deposit of Rs.2,10,000/- in this Court within four weeks from today failing which the Plaintiff will be entitled to a decree.

4. If the Defendant deposits the amount as aforesaid, Prothonotary & Senior Master to invest the same in a Fixed Deposit of a Nationalised Bank initially for a period of three years, to be renewed thereafter till the pendency of the Suit. The Suit shall then be transferred to the list of Commercial Causes.